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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,547	02/05/2002	Jurgen Neumann	13178	9911

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EXAMINER

COLE, ELIZABETH M

ART UNIT PAPER NUMBER

1771

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/068,547

Applicant(s)

NEUMANN ET AL. 

Examiner

Elizabeth M Cole

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

1. Applicant's election with traverse of Group I is acknowledged. The traversal is on the ground(s) that the search of the additional groups would not be burdensome as the search area would overlap and that the claims drawn to the method of using are drawn to the use of the claimed gauze. This is not found persuasive because the issues and search involved in examining the different groups would be divergent and therefore would be burdensome. Additionally, with regard to the method of using, as long as the produce can be used in a different process of using, the inventions can be shown to be distinct.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4, 6, 9, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 92/02301 to Heywood. Heywood discloses a catalysis formed from a knitted material. The catalyst may be formed on a circular knitting machine. Circular knitting is a type of weft-knitting, therefore, the catalyst gauze of Heywood would necessarily comprise weft threads. The weft threads may comprise the claimed noble metals. See Table 1. All the threads may have a diameter of from 0.05-0.5 mm. See page 9, lines 30-33. The knitted gauze may comprise a plurality of pile threads. See page 11, lines 5-13. The circular knitted fabric may be folded to produce a plurality of

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layers. The weft yarns would necessarily be between the layers since the fabric is interconnected.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heywood. Heywood discloses a circular knitted catalyst gauze as set forth above. Heywood differs from the claimed invention because it does not disclose the claimed thickness and does not disclose the number and angle of the pile threads. With regard to the thickness of the gauze, Heywood discloses that the thickness of the layers may be controlled depending on how long a residence time for gases passing through the layer is desired, and thereby control the catalytic effect. See page 11, lines 14-25. Therefore, Heywood discloses that the thickness of the layers is related to the residence time of the gas and thus to the catalytic effect of the gauze and is therefore a result effective variable. Therefore, it would have been obvious to one of ordinary skill in the art to have selected the desired thicknesses through the process of routine experimentation in order to optimize the residence time of the gases. With regard to the number and angle of the pile threads, Heywood teaches that incorporating the pile threads is another way of thickening a layer. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected the

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number and angle of the pile threads through the process of routine experimentation which resulted in the desired thickness.

6. Claims 5, 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. It is noted that claims 15-20 should be indicated as "withdrawn" rather than "original".


8. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (571) 272-0994.

The fax number for all official faxes is (703) 872-9306.

  
Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c